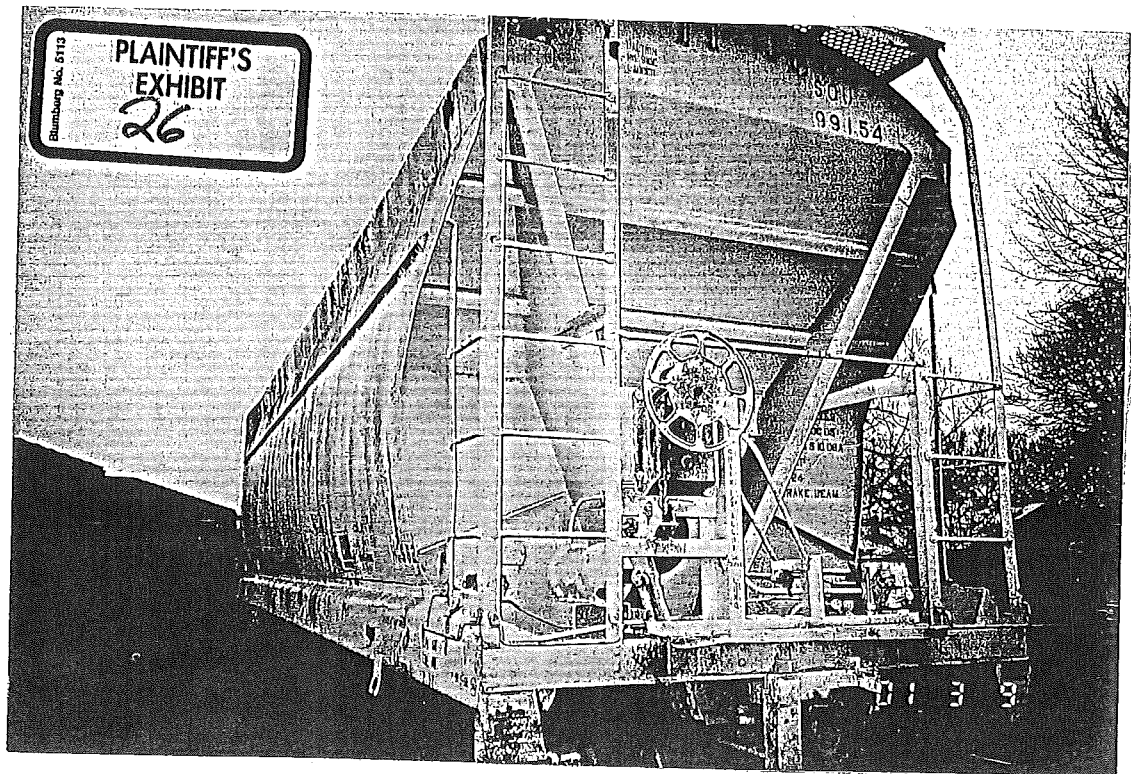
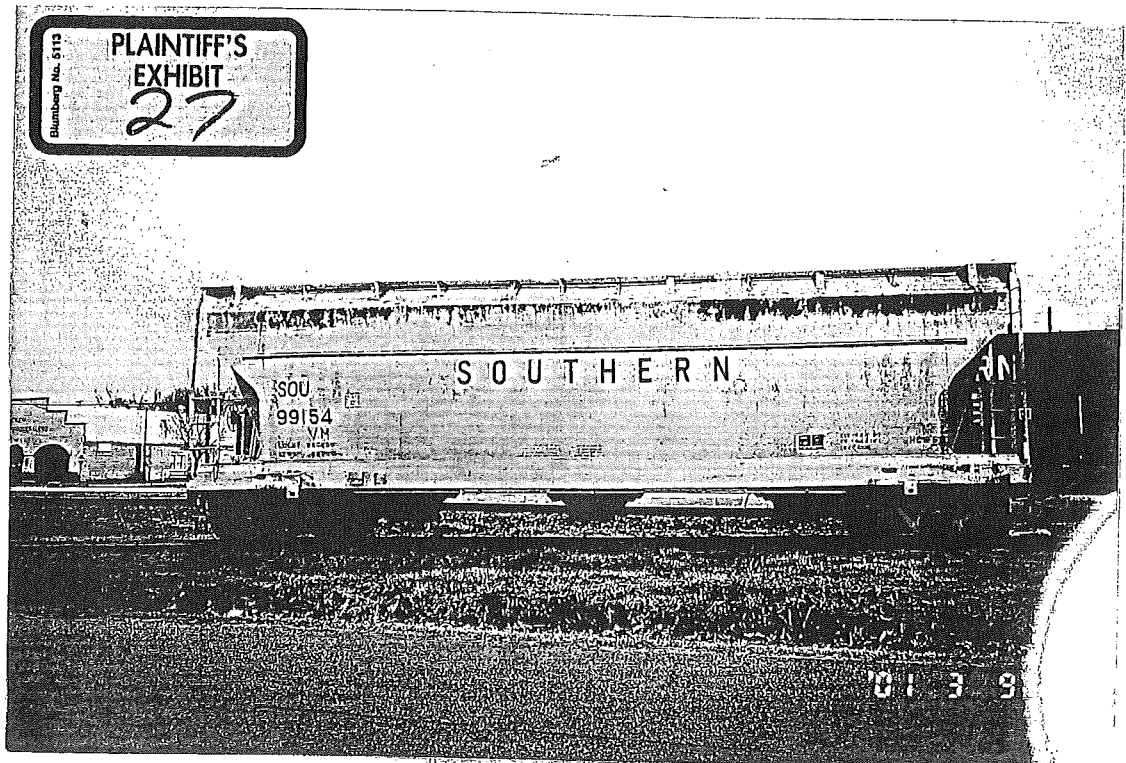


PLAINTIFF'S EXHIBIT NO. 25





PLAINTIFF'S EXHIBIT NO. 26



PLAINTIFF'S EXHIBIT NO. 27



MAR 13 '01 10:36 FR PIEDMONT DIV SUPT

7 228 4279 TO 714787418822-216 P.29/31

(182612)

## PERSONAL INJURY REPORT

REPORT DATE: 1-23-98 TRANSPORTATION DEPARTMENT  
 REPORT TIME (        AM) or ( 240P PM) PIEDMONT DIVISION

Train No. (If applicable) P22P0 Is this incident related to a Train or Crossing Accident? [ ] Yes [X] No

TO: Supervisory Officer: MR. CHAPMAN FROM: Injured Employee: L.E. KIRKLAND JR Employee SS No.: [REDACTED]

INCIDENT DATE: 1-23-98 INCIDENT TIME: (        AM) or ( 140P PM)

LOCATION: Select one: Line of Road ☒ Terminal        Shop or Office Building        Off Railroad Property       

INCIDENT CITY: WARRENVILLE STATE: S.C. MILEPOST: (If applicable) R 179.7

WEATHER: Select one: Clear        Cloudy        Rain ☒ Fog        Sleet        Snow        Does Not Apply        (Injury Occurred Indoc

VISIBILITY: Select one: Dawn        Day ☒ Dusk        Dark        Indoors-Dark        Indoors-Dim        Indoors-Normal        Indoors-Other       

TEMPERATURE: ( 58 PLUS) or (        MINUS)

HEIGHT: 5 FT. 8 IN. WEIGHT 150 LBS. OCCUPATION Conductor

REST DAYS: Select all that apply: Monday        Tuesday        Wednesday        Thursday        Friday        Saturday        Sunday ☒ None       

ASSIGNMENT: REGULAR ☒ RELIEF        EXTRA       

ON DUTY: ☒ Yes [ ] No HOURS ON DUTY AT TIME OF INCIDENT 6'45"

SAFETY ATTIRE WORN: Select all that apply: Head        Eye ☒ Hearing ☒ Respiratory        Foot ☒ Hand ☒ Other        None       

WAS ANY TYPE OF EQUIPMENT INVOLVED? ☒ Yes [ ] No STATIONARY ☒ MOVING       

EQUIPMENT TYPE: Select one: Freight ☒ Passenger        Mixed        Work        Yard Switching        Light Locomotive        M/W Equipment        None       

INITIAL AND NUMBER:       

WITNESS NAMES

ADDRESSES

DO YOU DESIRE MEDICAL ATTENTION AT THIS TIME? [ ] Yes ☒ No

DESCRIBE WHAT HAPPENED - GIVE SPECIFIC, DETAILED INFORMATION: White releasing

Handbrake on covered hopper loaded  
with clay. Slipped on clay on  
hopper and fell to ground.

L.E. Kirkland Jr  
 SIGNATURE OF EMPLOYEE

Distribution: Original to Supervisory Officer  
 Photocopy to Injured Employee



205

## PERSONAL INJURY REPORT

(162612)

REPORT DATE: 1-26-18 DEPARTMENT TRANSPORTATION  
 REPORT TIME ( 100 AM) or ( 100 PM) DIVISION Piedmont

Train No. (If applicable) P2200 Is this incident related to a Train or Crossing Accident? [ ] Yes [X] No

TO: Supervisory TRAINMASTER FROM: Injured Employee L.E. KIRKLAND Employee SS No.: [REDACTED]  
 Officer: MR. CHAPMAN

INCIDENT DATE: 1-26-98 INCIDENT TIME: ( 1210P AM) or ( 1210P PM)

LOCATION: Select one: Line of Road X Terminal    Shop or Office Building    Off Railroad Property   

INCIDENT CITY: Aiken, S.C. STATE: S.C. MILEPOST: (If applicable) SA 57.3

WEATHER: Select one: Clear X Cloudy    Rain    Fog    Sleet    Snow    Does Not Apply    (Injury Occurred Ind.)

VISIBILITY: Select one: Dawn    Day X Dusk    Dark    Indoors-Dark    Indoors-Dim    Indoors-Normal    Indoors-Other   

TEMPERATURE: ( 45° PLUS) or (    MINUS)

HEIGHT: 5 FT. 8 IN. WEIGHT 150 LBS. OCCUPATION Conductor

REST DAYS: Select all that apply: Monday    Tuesday    Wednesday    Thursday    Friday    Saturday    Sunday X None X

ASSIGNMENT: REGULAR X RELIEF    EXTRA   

ON DUTY: [X] Yes [ ] No HOURS ON DUTY AT TIME OF INCIDENT 5'10"

SAFETY ATTIRE WORN: Select all that apply: Head    Eye X Hearing X Respiratory    Foot X Hand X Other    None   

WAS ANY TYPE OF EQUIPMENT INVOLVED? [X] Yes [ ] No STATIONARY X MOVING   

EQUIPMENT TYPE: Select one: Freight X Passenger    Mixed    Work    Yard Switching    Light Locos    M/W Equipment    None   

INITIAL AND NUMBER: NS 245061

## WITNESS NAMES

## ADDRESSES

C. J. Sharpe  
T. W. Connolly

2905.  
1224 Blackville Ct. Gaston, S.C.  
3384 Calhoun St. Branchville  
SC 29432

DO YOU DESIRE MEDICAL ATTENTION AT THIS TIME? [X] Yes [ ] No

DESCRIBE WHAT HAPPENED - GIVE SPECIFIC, DETAILED INFORMATION: Pulled 7 loads  
from W.R. Grace Plant in Aiken, S.C. Brought  
ALL 7 loads which were covered in clay back  
to Aiken and ran around cars in house track  
to take to Warrenville S.C. to be set off.  
While applying handbrakes on cars conductor  
slipped on NS 245061 and twisted or  
tore or pulled something in lower back.  
Brakeman C.J. Sharpe saw incident.

L.E. Kirkland Jr.  
 SIGNATURE OF EMPLOYEE

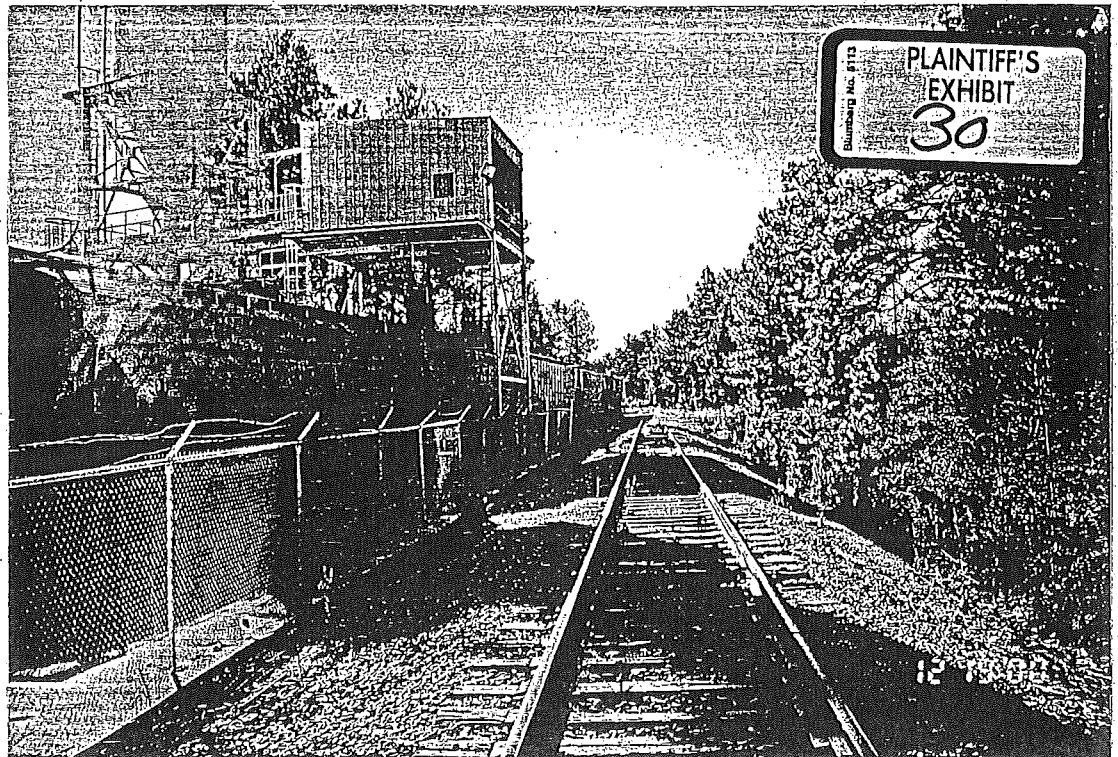
Distribution: Original to Supervisory Officer  
 Photocopy to Injured Employee



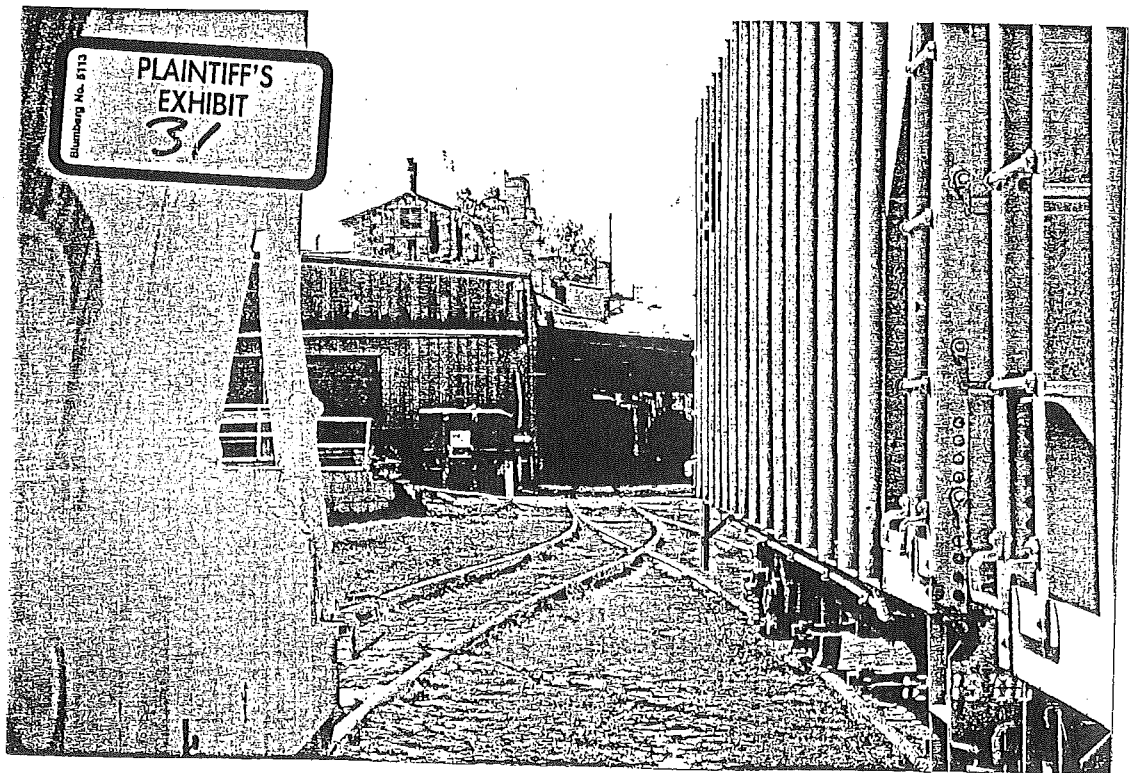
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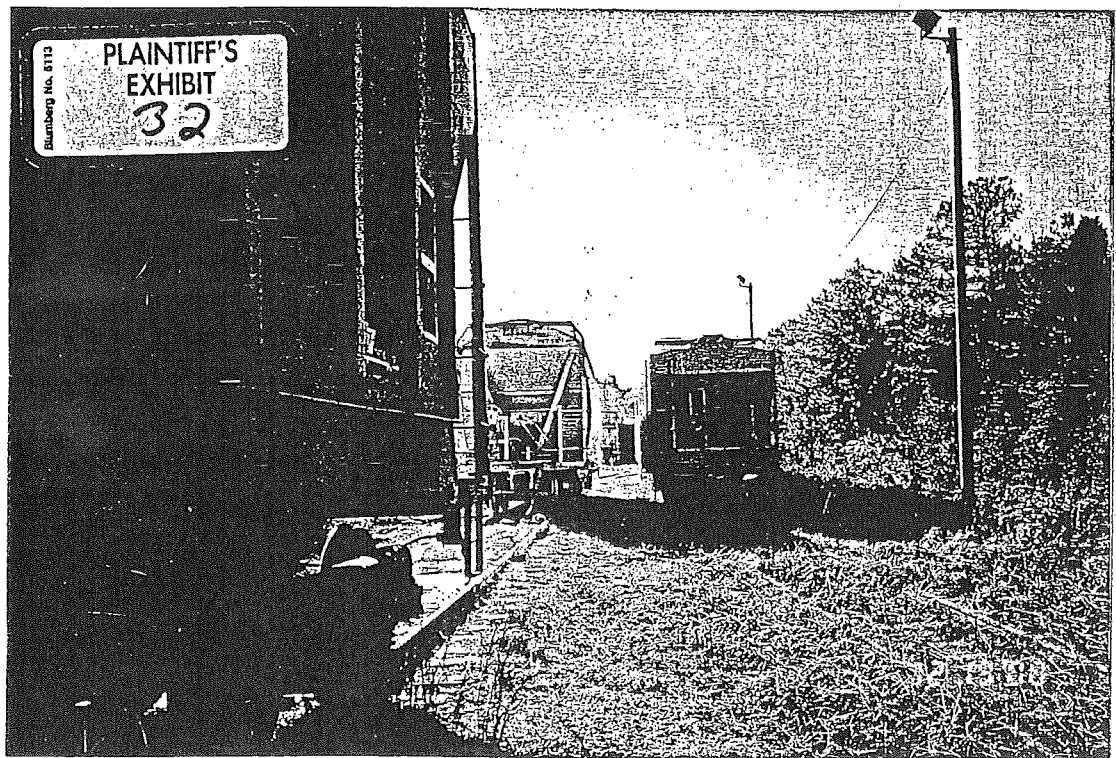


PLAINTIFF'S EXHIBIT NO. 30

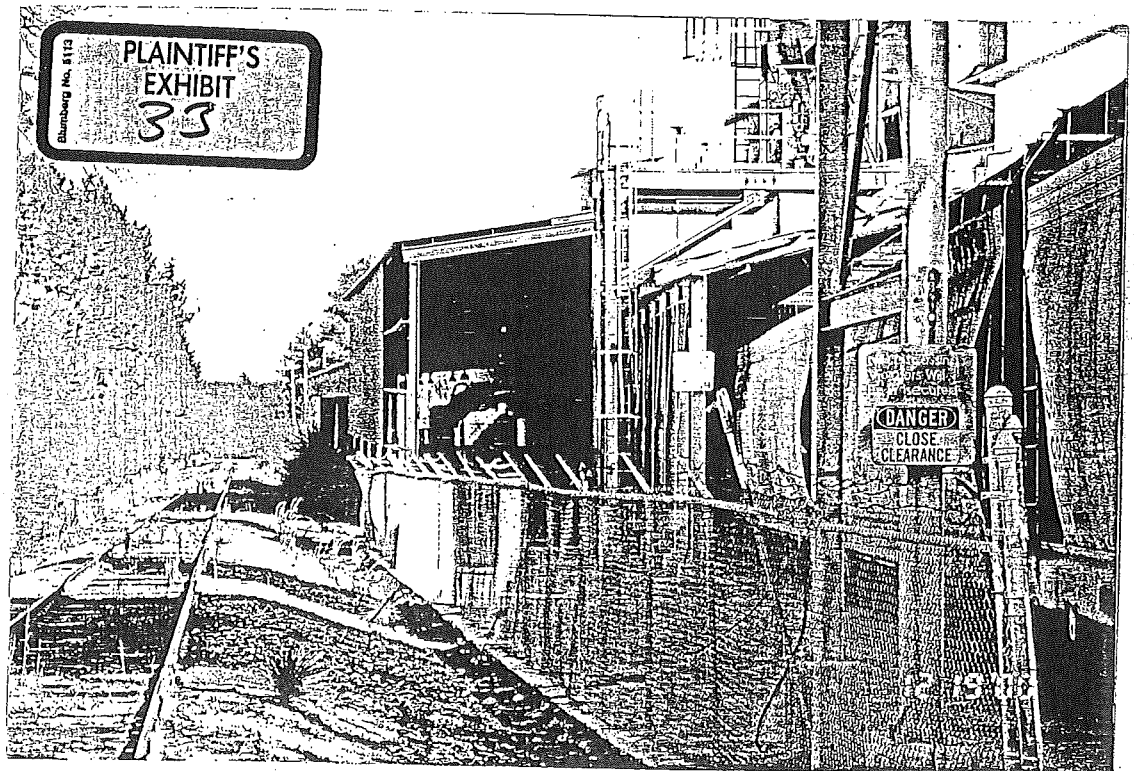


PLAINTIFF'S EXHIBIT NO. 31



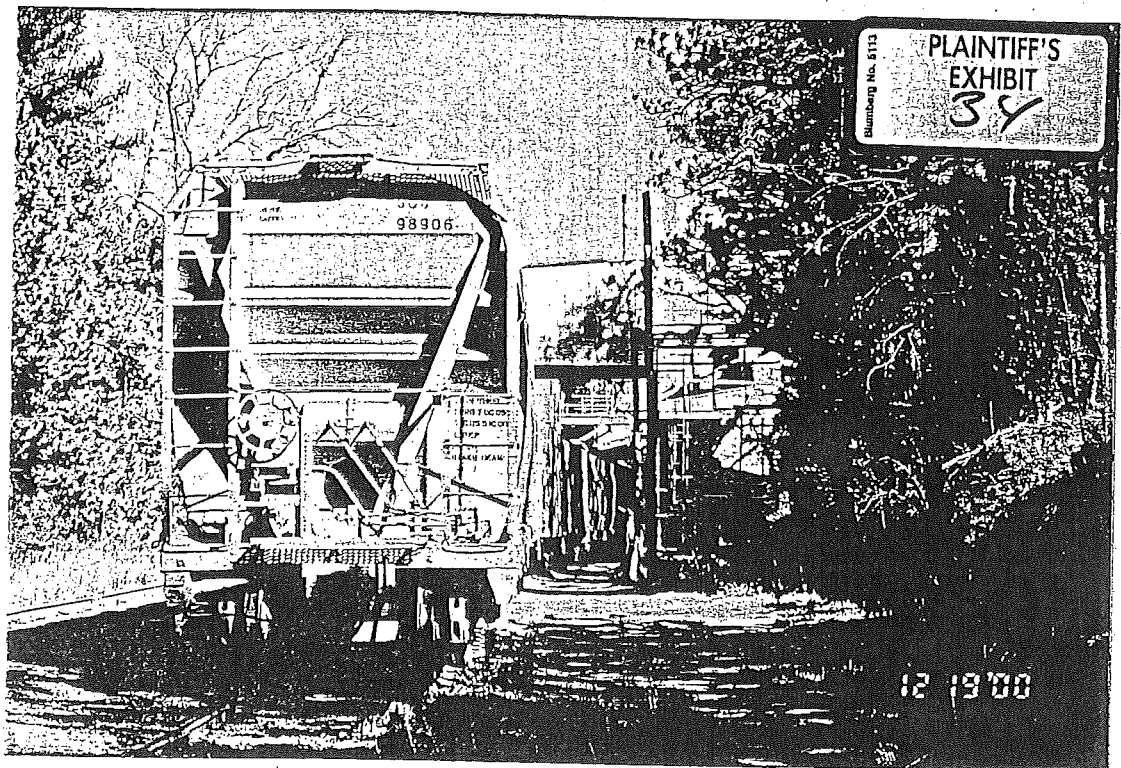


PLAINTIFF'S EXHIBIT NO. 32



PLAINTIFF'S EXHIBIT NO. 33

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PLAINTIFF'S EXHIBIT NO. 34



**PAGES 212 THROUGH 234 ARE MEDICAL  
RECORDS CONTAINING CONFIDENTIAL  
INFORMATION AND HAVE BEEN OMITTED**

**PAGES 235 THROUGH 288 ARE TAX RECORDS  
CONTAINING CONFIDENTIAL INFORMATION  
AND HAVE BEEN OMITTED**

May 11, 1998

Ms. Carolyn P. Wilson  
Manager  
Disability Support Services  
Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055

Dear Ms. Wilson:

Thank you for your letter of May 4, 1998. I appreciate your offer for rehabilitation services.

At the present time, however, I am still under the care of my doctors and I am very hopeful that I will recover from my injuries to the extent that I can return to my former employment with the railroad. I have invested much of my life in railroad work and I do not want to give up my job or seniority without having done everything I can from a medical standpoint to recover from my injuries. If at some future date it appears that I will not be able to return to my former employment, then I would like to avail myself of whatever help you or anyone else can give me in finding productive employment.

Thank you again for your consideration.

Sincerely,

*L. E. Kirkland Jr.*  
L. E. Kirkland, Jr.





August 24, 1998

Mr. T. Michael Maher  
Manager  
Disability Support Services  
Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055

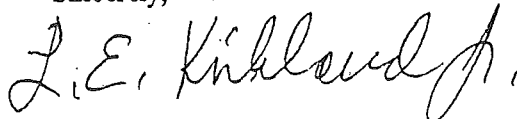
Dear Mr. Maher:

Thank you for your letter of August 20, 1998.

I would like to thank you for your interest in me. As I indicated in my previous letter of May 11, 1998, I am still under the doctors' care and the doctors have not yet made a final decision as to whether or not I will be able to return to my former job. As you know, I have built up many years of seniority as a trainman and I hate to throw it all away unless I absolutely have to. If the worst happens and I am permanently disabled as a trainman, then I would very much like any assistance that Norfolk Southern could give me in trying to find alternative employment. If it comes to that, I would greatly appreciate it if the railroad could assist me in finding work in my area. Although I will obviously do whatever is necessary to support myself, moving to Atlanta or moving to another area would be my last resort.

Again, thank you for your interest. When the doctors reach a final determination as to my future, if it is a bad result and I cannot go back to my railroad job, I will contact you.

Sincerely,



L. E. Kirkland, Jr.



March 31, 1999

Mr. T. Michael Maher  
Manager Disability Support Services  
Norfolk Southern Corporation  
110 Franklin Road S.E.  
Roanoke, VA 24042-0055

Dear Mr. Maher:

I want to thank you for your letter of March 19, 1999.

Your letter came at a most opportune time. I have just finished receiving an evaluation by Dr. Eisenberg. He has advised me that I will never be able to return to my former work as a trainman for the railroad. Obviously, this is very disturbing news to me. Nevertheless, I am willing to accept this fact and am trying to move forward with my life. Obviously, getting some sort of gainful employment is highest on my list. Any help you can give me in this regard would be greatly appreciated.

As you may know, I have worked out of and lived in the Aiken, South Carolina area for the past nine years. I have made a commitment to my daughter that I will not be an absentee father. My friends and roots are now here. The reason I tell you this is because I very much want to find a job in this area. I realize that when you are unemployed and disabled you cannot be choosy; at the same time, however, moving out of this area would be a last resort. I would greatly appreciate it if you could help me find a job in this area.

I am willing to do just about anything. Obviously, I will need some sedentary type of employment. I have difficulty sitting or standing for any extended length of time. Therefore, if we could focus on trying to find a job where I would be free to stand up and sit down at will, that would be ideal. I am taking pain medications. Although these medications do cause some slight drowsiness, I am confident that I will be able to work even while I am taking the pain medications. The medications I am currently on are Vicodin, Ultram, and Celebrex.

Finally, while I appreciate your offer of medical management services, I must decline them. Quite frankly, the one bright spot in this entire ordeal is that I have been blessed to be under the care of an extremely competent doctor. I have been well pleased with my medical

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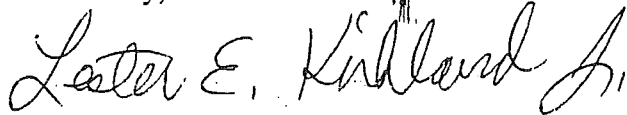


Page 2

treatment and I do not feel any need to change it. Please do not think that the fact that I am declining the medical management means that I am not interested in rehabilitation. On the contrary, I am very interested in whatever help you can give me in finding a job.

I look forward to hearing from you. If I can provide you with any additional information, please do not hesitate to let me know.

Sincerely,

A handwritten signature in cursive script that reads "Lester E. Kirkland, Jr." The signature is written in dark ink and is positioned above the printed name.

Lester E. Kirkland, Jr.

# Burge & Wettermark

The Law Offices of Burge & Wettermark  
2300 SouthTrust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3204  
(205) 251-9000  
(800) 633-3733  
(205) 323-0512 FAX

September 8, 1999

Frank O. Burge, Jr.  
James H. Wettermark  
F. Tucker Burge  
Courtney B. Brown  
M. Dykes Barber, Jr.  
Van Kirk McCombs II  
James R. Holland II\*

\*GA and FL only

Mr. T. Michael Maher  
Manager Disability Support Services  
Norfolk Southern Corporation  
110 Franklin Road S.E.  
Roanoke, VA 24042-0055

Re: Lester E. Kirkland, Jr.

Dear Mr. Maher:

Thank you for your letter of August 31, 1999.

I have discussed with Mr. Kirkland the offer of the dispatcher jobs in Dearborn, Michigan and/or Atlanta, Georgia. As Mr. Kirkland has indicated to you in the past, his personal situation is such that he needs to seek employment in his locality. Does Norfolk Southern have any sedentary or light duty type jobs in Mr. Kirkland's part of South Carolina? If so, he would certainly be interested in them.

In the meantime, I am trying to get a functional capacities evaluation for Mr. Kirkland so we can see what he is able to do. I will forward the results to you.

Sincerely,

James H. Wettermark

JHW/sb  
Enclosure

cc: Mr. Lester E. Kirkland, Jr.



Atlanta

Birmingham

Jacksonville





Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981- 5606  
540 981-5305 FAX

March 20, 2000  
KIRKLL012398HR

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, S.C. 29332

Dear Mr. Kirkland:

I understand you met with Mr. Alley to discuss aspects of a dispatcher position. It is my further understanding you do not medically qualify for a dispatcher position at the present time.

Norfolk Southern's Medical Department informed me you are medically qualified to return to an alternate clerical position within the Company. There are currently 11 clerical vacancies in the Centralized Yard Office in Atlanta, GA. As I explained in my December 16, 1999 letter to Mr. Wettermark, with copy to you, there is a minimum typing requirement of 35 words per minute for clerical positions. Additionally, you must complete a personnel evaluation before being considered for any alternate positions within the Company.

In your letter dated January 20, 2000, you stated that you "...would be more than thankful to work with an outside vocational counselor to try to find some gainful employment...". If you would like to pursue this, let me know and I will have a vocational counselor from one of the numerous providers we use throughout the system contact you.

Please let me know how you would like to proceed with your vocational rehabilitation. If you or Mr. Wettermark have any questions, feel free to contact me at (540) 981-5605.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'T. Michael Maher', written over the typed name.

System Manager  
Disability Support Services

TMM/cmt

cc:

Mr. James H. Wettermark -  
Burge & Wettermark, P.C.  
2300 South Trust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3204

Thank you for your letter dated  
March 9, 2000.

Mr. T. G. Czahor - Division Superintendent  
Dr. C. R. Prible - [REDACTED] - Enclosed is letter with list of  
Mr. Kirkland's medications.

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March 24, 2000

Mr. T. Michael Maher  
Manager Disability Support Services  
Norfolk Southern Corporation  
110 Franklin Road S.E.  
Roanoke, VA 24042-0055

Dear Mr. Maher:

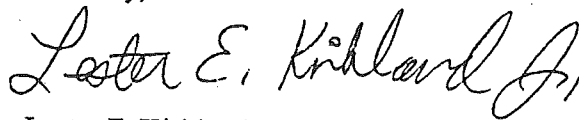
I would like to thank you for your letter of March 20, 2000.

As I have indicated to you in my prior conversations and correspondence, I have very strong personal reasons which prevent me from moving from South Carolina to Atlanta, Georgia. Obviously, the clerk jobs in Atlanta are not much good to me.

As I have indicated, I would be interested in trying to find some work outside the railroad. Please have your vocational counselors contact me at their earliest convenience.

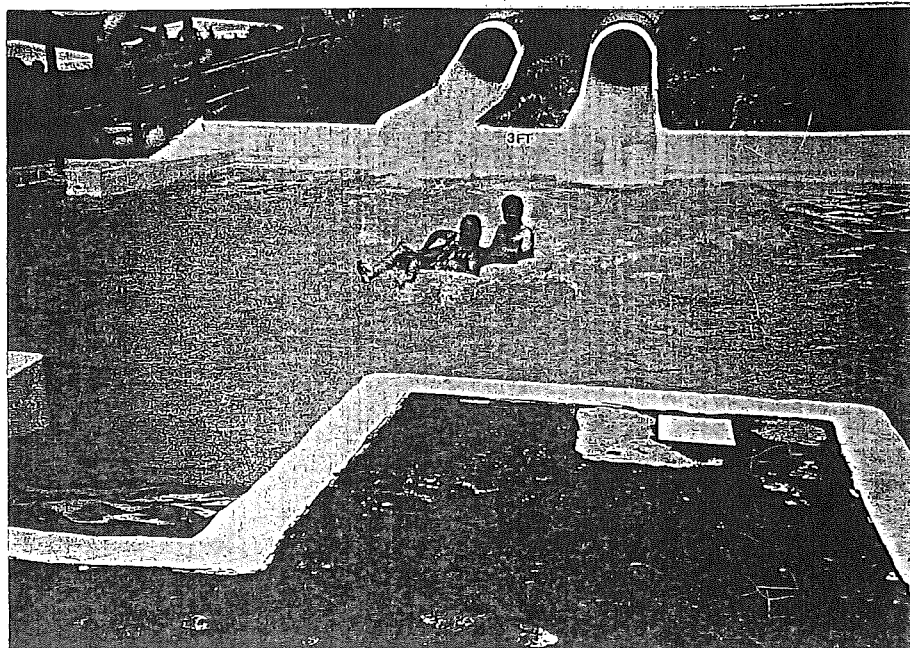
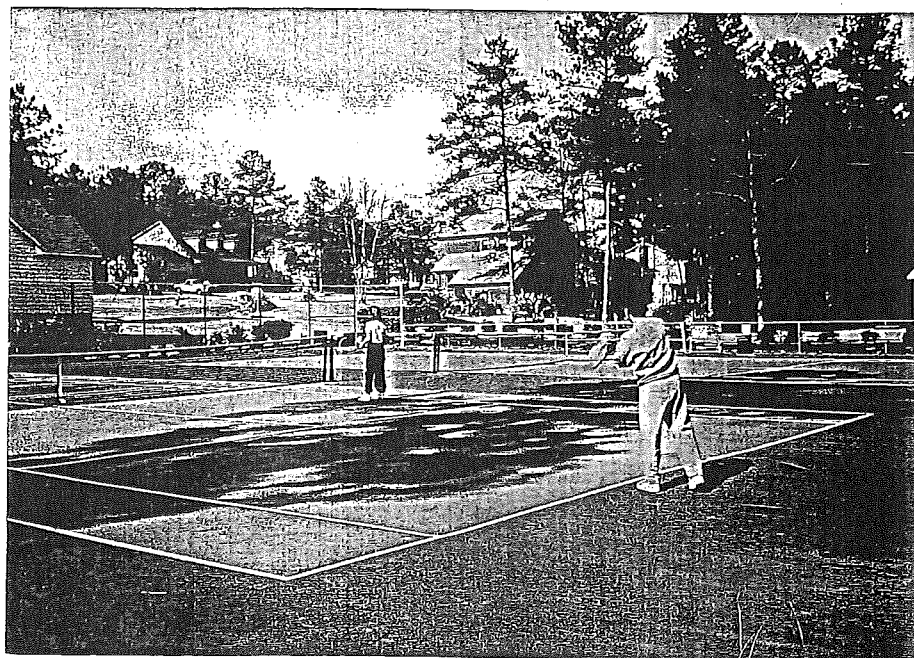
Thank you again.

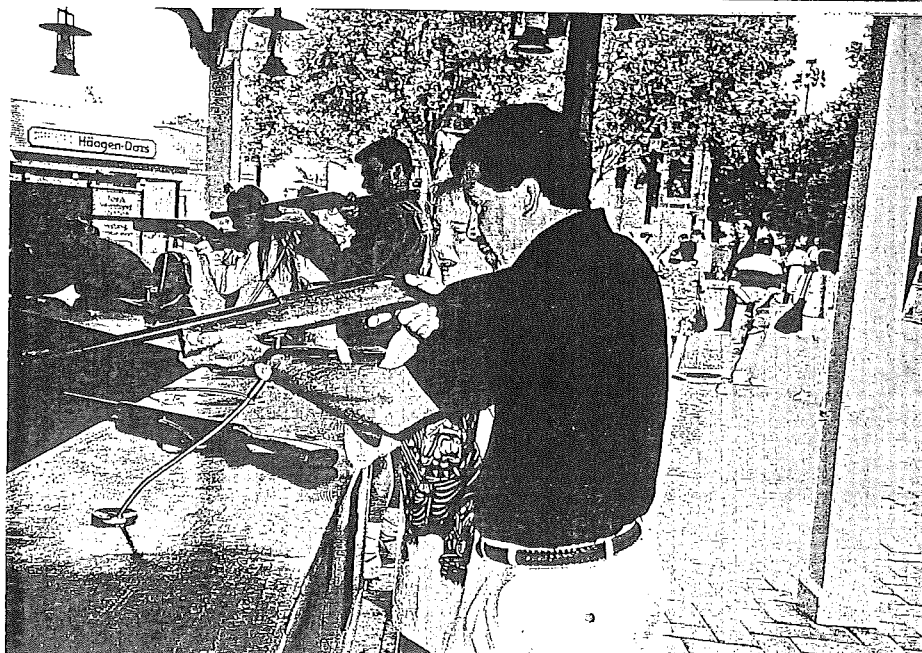
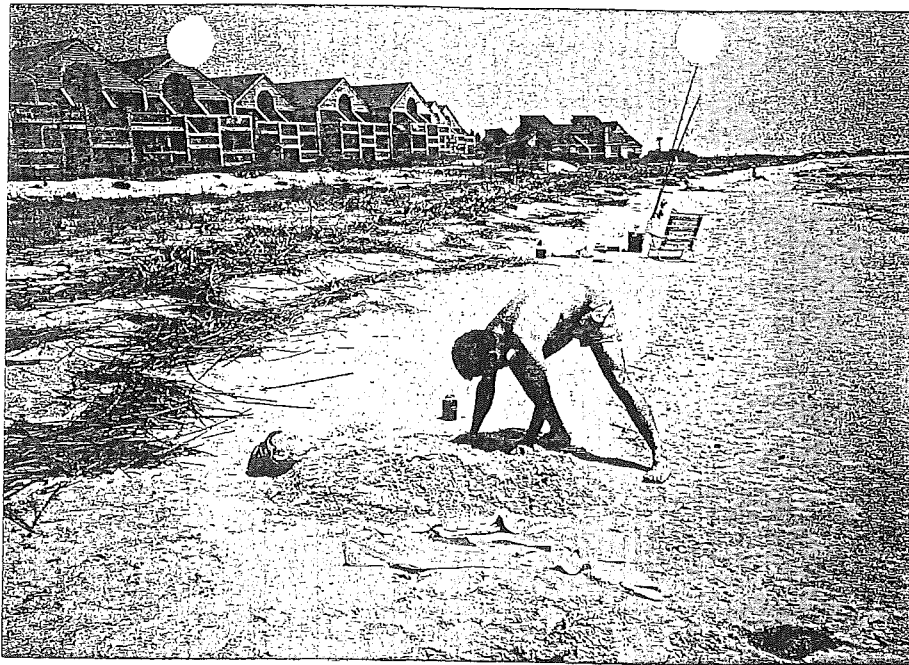
Sincerely,



Lester E. Kirkland, Jr.









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COMPUTER PRINTOUT SHEET OF MEDICATIONS

PLAINTIFF'S EXHIBIT NO. 67

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PLAINTIFF'S EXHIBIT NO. 68

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FORM NS-1

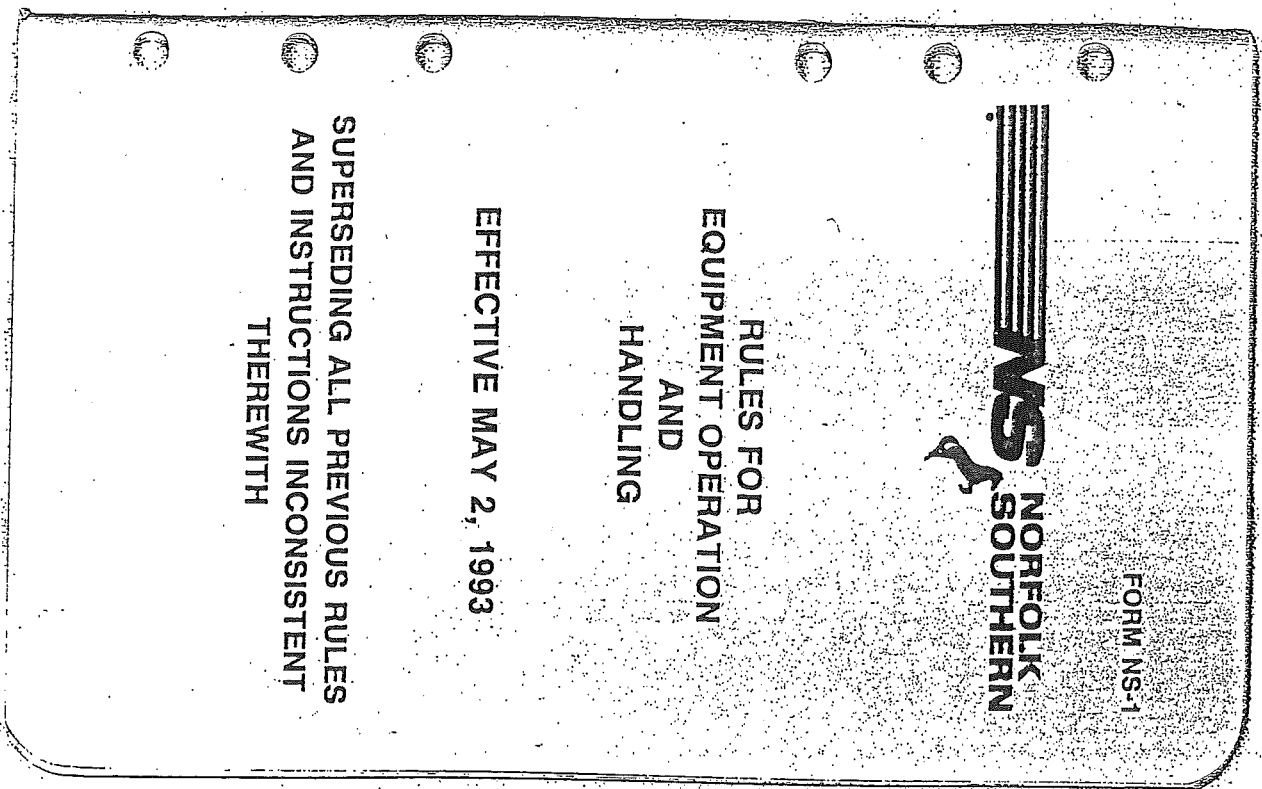
**RULES FOR  
EQUIPMENT OPERATION  
AND  
HANDLING**

**EFFECTIVE MAY 2, 1993**

**SUPERSEDING ALL PREVIOUS RULES  
AND INSTRUCTIONS INCONSISTENT  
THEREWITH**

586. Conductors must, if possible, remedy defects in their equipment, and must remove from the consist any cars that are unsafe to run. They must report all defective brakes, hot boxes or other defects, as well as repairs made between terminals. They must comply with instructions for reporting materials applied to cars and disposition of defective parts.



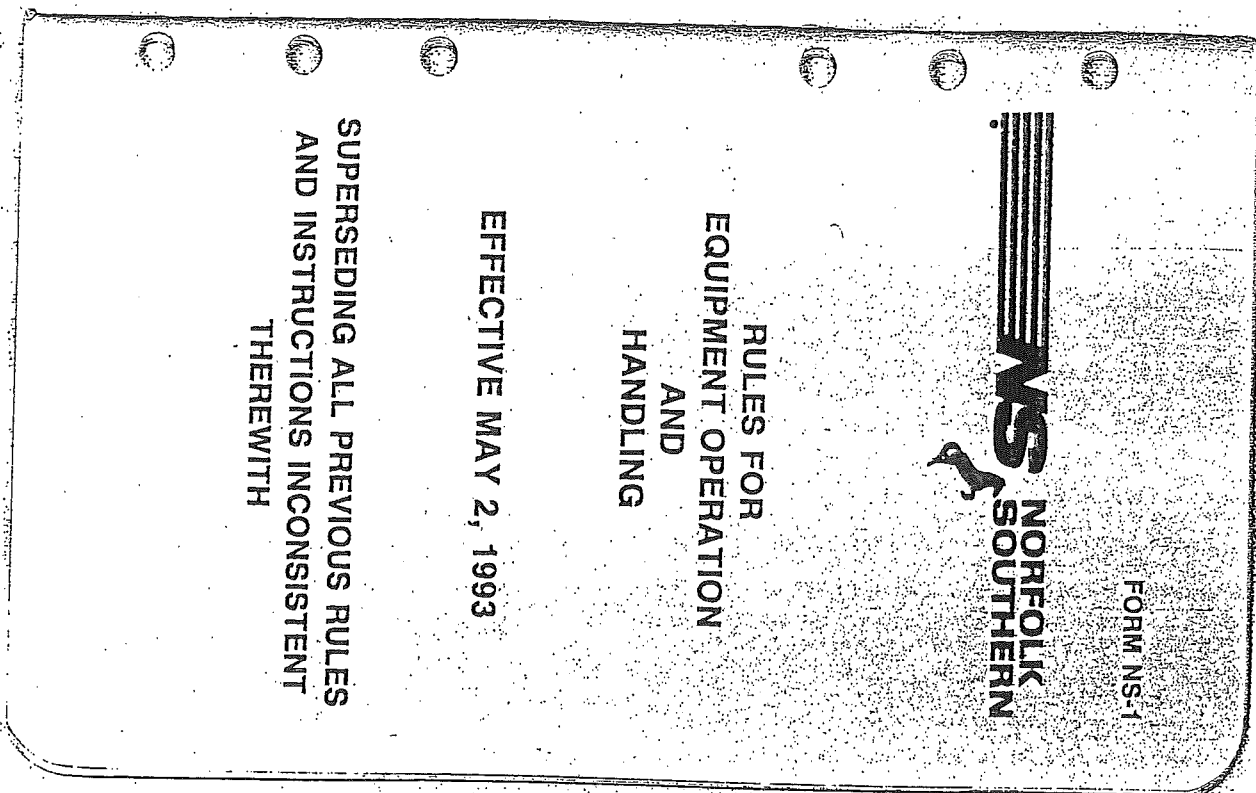


M. Some platforms, bridges and other structures, switch stands and tunnels will not clear a person on the top or side of a car or engine. Employees must become familiar with these and other places and protect themselves from injury.

Employees must not do any work in a manner that will jeopardize their own safety or the safety of others. They must know that appliances, tools, supplies and facilities used in performing their duties are in proper condition. If not, they must have them put in order before using them. It is the duty of every employee to examine them to determine their condition.

Employees must expect the movement of trains, engines or cars at any time, on any track, in either direction.





581. Conductors have charge of trains to which they are assigned and of all employees thereon. They are responsible for safe and proper management of their trains, for protection and care of passengers and property, for performance of duty by train employees, and for observance and enforcement of all rules and instructions.







NORFOLK  
SOUTHERN

INSPECTION OF FREIGHT CAR IN CONNECTION  
WITH PERSONAL INJURY

FORM ME-804 (REV. 4  
579554)

Personal Injury to: Lester E. Kirkland (NAME) Conductor (OCCUPATION)

at Warrenville S.C. (PLACE) on the 23 day of January, 1998 (TIME)

Car Initials 504 Number 99418 Kind Conv. Hopper Spl. Eq. None

Inspected at Warrenville S.C. (PLACE) on Jan 23, 1998 (DATE) at 7:05 pm (TIME)

Describe Fully Condition of Part of Car Involved in Injury: 22" vertical hand brake wheel  
in excellent condition. No defects.

COUPLERS AND ATTACHMENTS	NAME, STYLE & HEIGHT OF COUPLER	"A" NAME END <u>National Elbco</u>	TYPE	HEIGHT <u>33 1/2"</u>	"B" NAME END <u>NOT</u>	TYPE <u>SBelo</u>	HEIGHT <u>33 1/2"</u>
	CONDITION: "A" <u>Good No Exceptions</u> "B" <u>Good No Exceptions</u>	LATERAL PLAY "A" <u>5"</u> "B" <u>5"</u>					
HAND BRAKES	KIND <u>Universal</u>	TYPE <u>model 35000-2</u>	LOCATION <u>B end</u>			CONDITION <u>Good</u>	
	RESULT OF TESTS BY SETTING & RELEASING: <u>Work Properly No Exceptions</u>					BRAKE CHAIN PROPER LENGTH <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
	GREASE OR FOREIGN SUBSTANCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					BRAKE STAFF: TYPE: <u>None</u> CONDITION: <u>Good</u>	
AIR BRAKES	TYPE <u>ABD</u>	C.O.T. & S. STENCIL <u>None</u>		CONDITION <u>Good</u>			
BRAKE PLATFORM	KIND <u>metal</u>	DIMENSIONS <u>8" x 6 1/2"</u>	HEIGHT FROM RAIL <u>46 1/2"</u>	GREASE OR FOREIGN SUBSTANCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		CONDITION <u>Good</u>	
LADDERS, GRAB IRONS, HAND HOLDS, BILL STEPS, & STIRRUPS	WAS EACH TESTED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		CONDITION (DESCRIBE DEFECT FULLY—INCLUDE CONDITION OF CAR BODY AT ATTACHMENT) <u>good condition no exceptions</u>				
	GREASE OR FOREIGN SUBSTANCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO						
RUNNING BOARD	<input type="checkbox"/> WOOD <input type="checkbox"/> METAL <input type="checkbox"/> NONE		CONDITION				
ROOF	CONDITION						
DOORS & ATTACHMENTS	<input type="checkbox"/> SIDE <input type="checkbox"/> PLUG <input type="checkbox"/> HOP. <input type="checkbox"/> END <input type="checkbox"/> ROOF		CONDITION				
INTERIOR	<input type="checkbox"/> FLOOR <input type="checkbox"/> WOOD <input type="checkbox"/> STEEL <input type="checkbox"/> LOAD-DIVIDERS <input type="checkbox"/> OTHER <input type="checkbox"/> CONDITION						
	FLOOR <input type="checkbox"/> WOOD <input type="checkbox"/> STEEL <input type="checkbox"/> CONDITION						
	LINING <input type="checkbox"/> WOOD <input type="checkbox"/> STEEL <input type="checkbox"/> CONDITION						

We, the undersigned, have read the above statement and find it true and complete:

INSPECTORS:

(Signature) C. D. Barron Asst. OPR. Mgr. 53 (AGE) 32 (YEARS OF SERVICE)  
(TYPE OR PRINT NAME) C. D. BARRON  
(Signature) R. D. Stone CSMAN 43 (AGE) 24 (YEARS OF SERVICE)  
(TYPE OR PRINT NAME) R. D. Stone

WITNESS:

Occupation

DISTRIBUTION:

- Original and one copy to District Claim Agent
- One copy to Assistant Vice President and Chief Mechanical Officer-Car - Roanoke



AIKEN, SC - JANUARY 23, 1998

MR DM KIMBROUGH;  
GENERAL MANAGER

## THE FOLLOWING NON-REPORTABLE INJURY IS BEING SUBMITTED:

DATE	TIME	NAME	OCCUPATION	LOCATION
1-23-98	1:40PM	LE KIRKLAND	CONDUCTOR	WARRENVILLE SC
SENIORITY DATE		PREVIOUS INJURIES	SUPERVISOR	
10-23-75		6 INJURIES 2 REPORTABLE 4 NON-REPORTABLE	JE CHAPMAN	

Mr. Kirkland suffered a bruised right palm and bruised left lower side/back injuries on January 23, 1998 at approximately 1:40 PM. Kirkland was performing service on the p22p023, Aiken, South Carolina and reporting for duty at 7:00 AM. Kirkland has been working this position for several years and is very familiar with his assignment. He was born on May 9, 1955.

## THE ACCIDENT;

This crew transported 26 cars from Aiken to Warrentville. These cars were destined to the siding at Warrentville for through train pick-up. These same cars had to be switched into classification order at Warrentville. Six cars were left on the main track at the south end. Two handbrakes were applied to the north two cars by Conductor Kirkland. After switching 20 cars these six cars had to be set on the south end of the siding. Brakeman Sharpe coupled unit 5172 to the six standing cars. After doing so, Sharpe was coupling air to the lead car and Kirkland was releasing the two handbrakes. Rear car Sou-99418 was the last brake to be released. This brake is a low end, vertical mounted with a quick release 26 inch lever. Kirkland stated he was in a four point stance when he lost his grip and footing. He states that the quick release did not work so he grabbed the top of brake wheel with his right hand. When he attempted to pull the brake wheel towards him in a counter clockwise motion, his right hand slipped causing his left to slip and footing was lost.

Kirkland fell backward landing on his left lower back area. In the attempt to break his fall Kirkland bruised the palm area of his right hand. Kirkland attributes his loss of grip and footing to product contamination on the car. Steady rain caused the clay residue to become slippery.



page 2

Bruising and injuries were caused by the mainline ballast.

TREATMENT:

Kirkland did not desire any medical attention.

ACCIDENT SCENE:

This area consists of one main track and one storage track. The storage is use for set-off and pick-ups for the Aiken local. This area has good level walking conditions consisting of mainline ballast. Tracks are tangent and level. Employees had been operating in a steady rain for several hours. The clay cars were contaminated with a wet clay coating. Clay was also found underneath these cars washed off by the rain showers. We could not find any indication of a fall in the area indicated by Mr. Kirkland. He stated that the fall took place 16 car lengths from the south switch at Warrenville.

INCIDENT INVESTIGATION:

The incident was investigated by Officers Burgess, Gosnell, Roberson, Chapman, and Marcum. The engine tape was pulled for future reference. Inspection of car, Sou 99418 revealed that the release mechanism did work properly. Kirkland stated that he released one handbrake on second from rear car and moved to the rear car. The handbrake on Sou 99148 was on the north end and this was the trailing car in a consist of six. He stated that the quick release did not work. He also stated in an attempt to release the handbrake with his right hand he lost his grip and footing. His testimony stated that the handbrake was never released but the brake was found to be released by the team.

Kirkland stated that after his fall he jumped up and checked himself out. Brakeman Sharpe radioed Kirkland to see if he was in the clear and the cars were moved. Kirkland positioned himself to protect the shove move on the siding. The team proved that the handbrake had to be released but Kirkland stated that his attempt failed.

During the fall the engineer was located on the southeast short hood lead side of locomotive. Brakeman Sharpe was located on the northwest side of unit during incident. Kirkland fell six car lengths from the locomotive on the northeast side of car Sou 99418.

Page 3

Engineer McFarland and Brakeman Sharpe did not observe the incident. Mr. Kirkland were wet and made of leather. His boots are made by Wolverine, steel toed, defined heel with worn out slick soles. He was wearing safety glasses and utilizing his radio holster. The cars were shipped from J.M.Huber, North Aiken and released this same day.

TRAINING:

See his attached history.

PERSONAL HISTORY:

See his attached personal history.

EQUIPMENT:

Sou 99418 is a covered hopper type clay load with crushed clay. It is in clay service for Huber. It is found to be in good working order with some residue contamination. The brake wheel did not have contamination on during the teams inspection. However, the crossover platform, ladders, and footholds were found to be contaminated.

CREW:

Engineer JB Mc Farland  
Conductor LE kirkland  
Brakeman CJ Sharpe

J. L. WAGNER

--- RECEIVED FROM NSC.FLOBERS 7/225-3930  
-> NSC.JLWAGNER JOHN L WAGNER  
-> NSC.BABURGES B A BURGESS  
-> NSC.JECHAPMA JOHN ELL CHAPMAN

01-27-98 15.54  
TRAN/PI  
TRAN/PI  
TRAN/PI

FOLLOW-UP WRITE-UP FOR PERSONAL INJURY

COLUMBIA, 01-27-98

J.L. WAGNER  
SUPERINTENDENT

REFERENCE: PERSONAL INJURY OF CONDUCTOR L.E. KIRKLAND ON JANUARY 23, 1998 AT WARRENVILLE, SC. MP R-179.3, AT APPROXIMATELY 140 PM.

DETAILS: ON MONDAY 01-26-98 AT 7:00 AM. MET WITH CONDUCTOR KIRKLAND AT AIKEN, SC. DEPOT AS HE REPORTED FOR WORK. KIRKLAND REPORTED THAT AFTER RESTING OVER THE WEEKEND HIS BACK FELT MUCH BETTER AND THOUGHT HE WOULD BE OK. AT 1145 AM. KIRKLAND REQUESTED THAT I COME TO AIKEN DEPOT. KIRKLAND REPORTED THE MORE HE WORKED THE TIGHTER HIS LOWER BACK FELT. HE SAID THAT HE COULD FINISH THE DAY BUT WAS NOT SURE HOW FIT HE WOULD BE FOR SERVICE IF THE PAIN PERSISTED.

ON TUESDAY 01-27-98 KIRKLAND REPORTED FOR WORK AT 700 AM. AND REPORTED THAT HE WAS NOT ABLE TO WORK AND WOULD LIKE TO SEE A DOCTOR. AT 1030 AM. WE ARRIVED AT DR. C. TUCKER WESTON'S OFFICE, 1410 BARNWELL STREET, COLUMBIA, SC. EXAMINATION REVEALED THAT KIRKLAND HAD MUSCLE SPASMS AND NO APPARENT DAMAGE TO BONE STRUCTURE. DR. WESTON ADVISED KIRKLAND TO TAKE IBUPROFEN FOR PAIN AND RUB WITH ANALGESIC TO EASE SPASMS.

ON 01-27-98 AT 330 PM. KIRKLAND CALLED AND REPORTED THAT HE WAS IN PAIN AND THOUGHT HE WOULD NOT BE ABLE TO WORK ON WEDNESDAY AND WAS GOING TO MIDLAND ORTHOPAEDICS, 320 HARBISON BLVD., COLUMBIA, SC. FOR X-RAY AND SECOND OPINION. JE. CHAPMAN WILL ACCOMPANY AND UPDATE.

FL. ROBERSON/JE CHAPMAN





## NORFOLK SOUTHERN REPORT OF PERSONAL INJURY/ILLNESS INCIDENT

INCIDENT NUMBER - NSP019809816 INITIAL REPORTING TSAR #

DATE 01-26-98 TIME 0218PM LOCATION - WARRENSVILLE, SC FACILITY 03  
SUBSIDIARY NSTO: DCA -MACON-GA/CLMSC , DMK -ATLANTA-GA/GME  
JAD -GREENVIL-SC/DSUPT , JLW -GREENVIL-SC/DSUPT

KIRKLAND JR, LESTER E  
134 A LAKESHORE DR.  
42 YEARS OLD  
CONDUCTOR (THRU  
SENIORITY DATE - 09/12/75  
REST DAYS - FRI  
HOURS ON DUTY - 06  
PLACE OF INCIDENT - WARRENSVILLE  
DIV - PIEDMONT DIVISION  
SUPERVISOR - CHAPMAN  
INCIDENT DATE - 01-23-98  
WEATHER - RAIN  
ACCIDENT TYPE - FALL - SAME LEV BODY PART  
INJURY TYPE - BRUISE/CONTUSIO ACTIVITY  
OBJECT OF ACTIVITY - BRAKE - HAND SOURCE OF INJURY - BALLAST  
PROTECTIVE EQUIP - EYE, FOOT, HAND PROTECTION  
TYPE OF EYE PROTECTION - OTHER  
LOST DAY NO LOST DAYS  
TYPE OF MEDICAL ATTENTION - DECLINED TREATMENT  
DESCRIPTION OF TREATMENT:  
DECLINED TREATMENT  
PHYSICIAN/HOSPITAL -  
ADDRESS -

EMPLOYEE ON DUTY  
CROSS HILL, SC 29332  
5 FT 08 INCHES TALL 150 POUNDS  
DEPT. - T&E-ROAD CREWS  
GENDER - MALE  
012 MO AREA/ASSGN. REGULAR ASSGNM  
REST HOURS PRIOR TO THIS TOUR DUTY - 12  
STATE - SC MILEPOST - R-17937  
CHARGE TO - RD-COLUMBIA  
J. E.  
TIME 0140PM  
58 DEGREES  
DAY  
- THUMB RIGHT HAND  
- PULLING  
- BALLAST

SSN [REDACTED]  
SPVR SSAN - [REDACTED]

## EMPLOYEE DESCRIPTION OF INCIDENT:

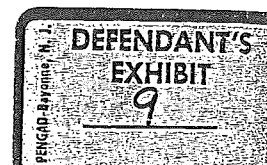
WHILE RELEASING HANDBRAKE ON CLOVERED HOPPER LOADED WITH CLAY (ON HOPPER)  
SLIPPED ON CLAY ON HOPPER AND FELL TO GROUND.  
WAS EQUIP. INVOLVED IN INCIDENT? - YES, STATIONARY  
INITIAL/NUMBER - SOU 99418 TYPE RAIL EQUIP - FREIGHT  
WAS EQUIPMENT DEFECTIVE? - NO  
WITNESS TO INCIDENT: NONE

## DESCRIPTION OF HOW INCIDENT OCCURRED:

EMPLOYEE PULLING ON BRAKE WHEEL TO RELEASE BRAKE. HANDS SLIPPED OFF DUE  
TO WET GLOVES AND CLAY RESIDUE CAUSING EMPLOYEE TO FALL TO GROUND LANDING  
ON BACK. BRUISED HAND ATTEMPTING TO BREAK FALL.

SIGNATURE - J. L. WAGNER

TITLE- SUPERINTENDENT



January 29, 1998

UPDATE

Mr. D. M. Kimbrough, General Manager:

THE FOLLOWING REPORTABLE INJURY IS BEING UPDATED TO LOST TIME.

DATE	TIME	NAME	OCCUPATION	LOCATION
1-23-98	1:40 PM	L. E. KIRKLAND, JR.	CONDUCTOR	WARRENVILLE, SC
SENIORITY DATE		NO. PREVIOUS INJURIES		SUPERVISOR
10-23-75		6 INJURIES		J. E. CHAPMAN
		2 REPORTABLE		
		4 NON-REPORTABLE		

Mr. Kirkland suffered a bruised right palm and bruised left lower side/back injuries on January 23, 1998 at approximately 1:40 PM. Kirkland was performing service on the P22P023, Aiken, South Carolina and reported for duty at 7:00 AM. Kirkland has been working this position for several years and is very familiar with his assignment. He was born on May 9, 1955.

**THE ACCIDENT:**

This crew transported 26 cars from Aiken to Warrentville. These cars were destined to the siding at Warrentville for through train pick-up. These same cars had to be switched into classification order at Warrentville. Six cars were left on the main track at the south end. Two handbrakes were applied to the north two cars by Conductor Kirkland. After switching 20 cars, these six cars had to be set on the south end of the siding. Brakeman Sharpe coupled unit 5172 to the six standing cars. After doing so, Sharpe was coupling air to the lead car and Kirkland was releasing the two handbrakes. Rear car SOU 99418 was the last brake to be released. This brake is a low end, vertical mounted with a quick release 26 inch lever. Kirkland stated he was in a four point stance when he lost his grip and footing. He states that the quick release did not work so he grabbed the top of the brake wheel with his right hand. When he attempted to pull the brake wheel towards him in a counter clockwise motion, his right hand slipped causing his left to slip and footing was lost.

Kirkland fell backward landing on his left lower back area.



In the attempt to break his fall, Kirkland bruised the palm area of his right hand. Kirkland attributes his loss of grip and footing to product contamination on the car. Steady rain caused the clay residue to become slippery. Bruising and injuries were caused by the mainline ballast.

#### **TREATMENT:**

Kirkland did not desire any medical attention.

#### **ACCIDENT SCENE:**

This area consists of one main track and one storage track. The storage is used for set-offs and pick-ups for the Aiken local. This area has good level walking conditions consisting of mainline ballast. Tracks are tangent and level. Employees had been operating in a steady rain for several hours. The clay cars were contaminated with a wet clay coating. Clay was also found underneath these cars washed off by the rain showers. We could not find any indication of a fall in the area where Kirkland stated the fell. He stated that the fall took place 16 car lengths from the south switch at Warrenville.

#### **INCIDENT INVESTIGATION:**

The incident was investigated by Officers, Burgess, Gosnell, Roberson, Chapman and Marcum. The engine tape was pulled for future reference. Inspection of car, SOU 99418 revealed that the release mechanism did not work properly. Kirkland stated that he released one handbrake on a second from rear car and moved to the rear car. The handbrake on SOU 99418 was on the north end and this was the trailing car in a consist of six. He stated that the quick release did not work. He also stated in an attempt to release the handbrake with his right hand he lost his grip and footing. He stated that the handbrake was never released but the brake was found to be released by the team.

Kirkland stated that after his fall, he jumped up and checked himself out. Brakeman Sharpe radioed Kirkland to see if he was in the clear and the cars were moved. Kirkland positioned himself to protect the shove move on the siding. The team proved that the handbrake had to be released, but Kirkland stated that his attempt failed.

During the fall the engineer was located on the southeast short hood lead side of the locomotive. Brakeman Sharpe was

located on the northwest side of the unit during the accident. Kirkland fell six car lengths from the locomotive on the northeast side of car SOU 99418. Engineer McFarland and Brakeman Sharpe did not observe the incident. Mr. Kirkland's gloves were wet and made of leather. His boots are made by Wolverine, steel toes, defined heel with worn out slick soles. He was wearing safety glasses and utilizing his radio holster. the cars were shipped from J. M. Huber, North Aiken and released this same day.

**TRAINING:**

See his attached history.

**PERSONAL HISTORY:**

See his attached personal history.

**EQUIPMENT:**

SOU 99418 is a covered hopper loaded with crushed clay and is in clay service for Huber. It was found to be in good working order with some residue contamination. The brake wheel was not found to be contaminated during the team's inspection. However, the crossover platform, ladders and footholds were found to be contaminated.

**CREW:**

Engineer J. B. McFarland  
Conductor L. E. Kirkland, Jr.  
Brakeman C. J. Sharpe

**UPDATE:**

On Monday, January 26, 1998 at 7:00 AM, Trainmaster Chapman spoke with Conductor Kirkland as he reported for work at the Aiken Depot. Kirkland reported that after resting over the weekend his back felt much better and he thought he would be okay.

At 11:45 AM, Kirkland requested that Trainmaster Chapman meet him at the Aiken Depot. Conductor Kirkland reported the more he worked the tighter his back became. Kirkland advised he could

finish the day, but was not sure how fit he would be for service if the pain persisted.

On Tuesday, January 27, 1998 at 7:00 AM, Kirkland reported for work at the Aiken Depot. Shortly after reporting for duty he contacted Superintendent of Terminals Roberson and requested to see a doctor.

At 10:30 AM, Kirkland and Superintendent of Terminals Roberson arrived at the office of Dr. C. Tucker Weston, 1410 Barnwell Street, Columbia, South Carolina. The examination revealed Conductor Kirkland had muscle spasms causing discomfort and tightness in his lower back with no apparent damage to bone structure. Dr. Weston advised Kirkland to take Ibuprofen for pain and a non-prescription analgesic applied locally to ease muscle spasms.

At 3:30 PM, Kirkland call Superintendent of Terminals Roberson and requested a second medical opinion. An attempt to schedule an appointment with the Midland Orthopedics, 320 Harbison Boulevard, Columbia, South Carolina, was unsuccessful.

On Wednesday, January 28, 1998 at 2:15 PM, Conductor Kirkland scheduled an appointment with Dr. Thomas R. Jackson, Aiken Medical Center, Suite 1510, 210 University Parkway, Aiken, South Carolina. During Dr. Jackson's examination, Kirkland explained his fall and pain in his lower back, tightness of the right thumb and subsequent headaches. Dr. Jackson recommended Ibuprofen for Kirkland's back spasms, prescribed Tylenol 3 for his headache and advised Kirkland to see Dr. Holford on February 3, 1998 if his thumb did not improve. Dr. Jackson told Kirkland to stay away from work and return to his office on February 4, 1998. The doctor advised a week of rest and Kirkland should be ready to return to work. No x-rays were taken.

Trainmaster Chapman met with Kirkland as he was departing Aiken Medical Center. Kirkland advised Trainmaster Chapman after his examination on Tuesday with Dr. Weston, UTU Local Chairman Coleman advised him to seek a second opinion. According to Kirkland, UTU Local Chairman Coleman described Orthopedic Surgeon C. Tucker Weston "as a Quack".

Mr. Kirkland reported he had been advised by UTU General Chairman Barbee and UTU Local Chairman Coleman not to return to work unless he was 100 percent. They justified this advice by saying "any injury or incident that might occur would be blamed on Mr. Kirkland."

Effective January 28, 1998, L. E. Kirkland is marked off injured. As of this date, Kirkland's injury status is upgraded to lost time. Estimated time away from work is one week.

J. L. Wagner  
Superintendent





Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981-<sup>5605</sup>  
540 981-5305 FAX

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

March 19, 1999

KIRKLL012398HR

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, SC 29332

Dear Mr. Kirkland:

Referring to my letter to you dated December 22, 1998.

Although we have not heard from you, I want to again offer you the opportunity to enter Norfolk Southern's Rehabilitation Program. As related to you in prior correspondence, there are numerous services we can offer you. The medical management services and the assignment of a registered nurse to work with you could be especially helpful.

Please feel free to call me at (540) 981-5606 if you have any questions. I hope you will take advantage of the Program.

Very truly yours,

*T. Michael Maher*

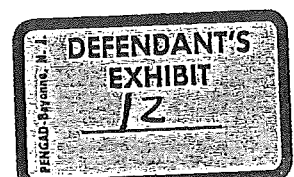
TMM/mls

Manager  
Disability Support Services

cc:

Mr. James H. Wettermark  
Burge & Wettermark, P. C.  
2300 South Trust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3269

Mr. J. L. Wagner - Division Superintendent





Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981- 5606  
540 981-5305 FAX

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

April 22, 1999  
KIRKLL012398HR

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, SC 29332

Dear Mrs. Kirkland:

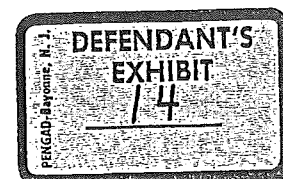
Thank you for your letter dated March 31, 1999. I am sorry to read that your doctor advised that you cannot return to your former position. However, I am glad to read that you want to return to some gainful employment.

Norfolk Southern's Medical Director determines whether an employee medically qualifies to return to railway company employment. In order to make that determination, the Medical Director must review all updated medical reports. Specifically, those reports must include your treating doctor's recommendations and accommodations for your return to work, whether you have reached maximum medical improvement and whether you are taking prescription medications with dosage and frequency. Please provide this documentation to me and I will forward it to the Medical Director for review and a determination as to your ability to return to railway company employment.

If the Medical Director determines that you are unable to return to your former position, but you medically qualify for an alternate position, a personnel evaluation is required. This evaluation, given by our Personnel Department, determines your aptitudes and abilities for an alternate position and is required of all employees seeking an alternate position within the Company. With your permission I will coordinate the scheduling of that evaluation.

I respect your wish to remain near your daughter. Sometimes, though, relocation is necessary to take advantage of the available job opportunities.

If there are no railway company jobs available within a reasonable distance from your home, I will gladly provide you with the services of an outside vocational counselor. This independent vocational specialist will assist you in finding gainful employment outside the railway company. This service is a benefit of your employment and is at no cost to you. Please let me know if you would like to pursue that avenue.



Mr. Lester E. Kirkland, Jr.  
April 22, 1999  
Page 2

You stated that you must decline the offer of medical management because you do not feel you need to change your medical treatment. A medical management registered nurse only complements the expert care and treatment that you are currently receiving from your physician. The nurse serves you and your doctor in a consultive capacity. The nurse does not provide medical treatment. If you change your mind about medical management, let me know and I will have medical management registered nurse contact your.

I am pleased to read that you want to return to work. A key factor in your returning to work is your own assistance and motivation to do so. Please contact me to discuss how you would like to proceed with your vocational rehabilitation.

I hope that you will take advantage of Norfolk Southern's Rehabilitation Program. This is your Program and a benefit of your employment.

I look forward to hearing from you. Should you or Mr. Wettermark have any questions feel free to contact me at (540)981-5606.

Very truly your

*T. Michael Maher*

TMM/mhs

Manager  
Disability Support Services

cc:

Mr. James H. Wettermark - Enclosed is copy of Mr. Kirkland's letter dated  
Burge & Wettermark, P. C. 3/31/99.  
2300 South Trust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3269

Mr. J. L. Wagner - Division Superintendent



Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981- 5606  
540 981-5305 FAX

August 12, 1999  
KIRKLL012398HR

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James H. Wettermark  
Burge & Wettermark, P. C.  
2300 South Trust Tower  
Birmingham, Alabama 35203-3269

Re: Lester E. Kirkland, Jr.

Dear Mr. Wettermark:

Thank you for your letter dated August 3, 1999.

I am sorry to hear that Mr. Kirkland's nerve root compression may be causing him further problems. I wish him well in his recovery. If Mr. Kirkland would like to talk with a medical management registered nurse, let me know and I will have one contact him.

I look forward to receipt of all updated medical reports as they become available to you. Upon my receipt of same, I will forward them to our Medical Department for a determination as to whether Mr. Kirkland medically qualifies to return to his former position or to an alternate position within the Company.

Should you or Mr. Kirkland have any questions feel free to contact me at (540)981-5606.

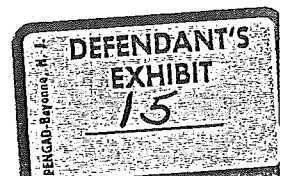
Very truly yours,  
*T. Michael Maher*

TMM/mhs  
cc:

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, SC 29332

Manager  
Disability Support Services

Mr. J. L. Wagner - Division Superintendent  
Dr. C. R. Prible - [REDACTED]





Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981-5606  
540 981-5305 FAX

August 31, 1999  
KIRKLL012398HR

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James H. Wettermark  
Burge & Wettermark, P. C.  
2300 South Trust Tower  
Birmingham, Alabama 35203-3269

Re: Lester E. Kirkland, Jr.

Dear Mr. Wettermark:

It is my understanding that Mr. Kirkland previously worked as a dispatcher. We currently have 15 dispatcher vacancies in Atlanta, Georgia and seven dispatcher vacancies in Dearborn, Michigan.

Hopefully, his doctor will soon determine what, if any, medical restrictions are appropriate relative to Mr. Kirkland's ability to return to work. If, at that time, Mr. Kirkland is unable to return to his former position, we can look for alternate positions such as dispatcher or clerical positions in trying to help him return to Railway Company employment. If he is unable to return to any Railway Company employment, we will gladly provide Mr. Kirkland with the services of an outside vocational counselor to assist him in finding gainful employment outside the Railway Company.

Should you or Mr. Kirkland have any questions feel free to contact me at (540)981-5606.

Very truly yours,

*T. Michael Maher*

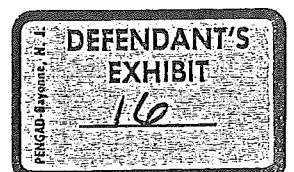
TMM/mhs

Manager  
Disability Support Services

cc:

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, SC 29332

Mr. J. L. Wagner - Division Superintendent  
Dr. C. R. Prible - [REDACTED]







Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981-5606  
540 981-5305 FAX

September 16, 1999  
KIRKLL012398HR

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James H. Wettermark  
Burge & Wettermark, P. C.  
2300 South Trust Tower  
Birmingham, Alabama 35203-3269

Re: Lester E. Kirkland, Jr.

Dear Mr. Wettermark:

Thank you for your letter dated September 8, 1999.

I understand Mr. Kirkland's desire to work in his locality. However, relocation is sometimes necessary in order to take advantage of employment opportunities within the Railway Company.

At the present time, there are no light duty positions available in Mr. Kirkland's area. If that situation changes, I will notify you and Mr. Kirkland immediately.

I look forward to receipt of the FCE report. Upon my receipt of same, I will forward that report to Norfolk Southern's Medical Department for review and determination as to whether Mr. Kirkland medically qualifies to return to his former position or to an alternate position within the Company.

If you or Mr. Kirkland have any questions feel free to contact me at (540)981-5606.

Very truly yours,

*T. Michael Maher*

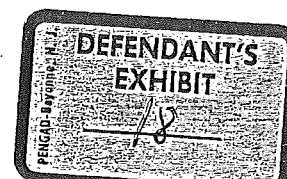
TMM/mhs

cc:

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, SC 29332

Manager  
Disability Support Services

Mr. J. L. Wagner - Division Superintendent  
Dr. C. R. Prible - [REDACTED]





Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981-5606  
540 981-5305 FAX

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

December 16, 1999

KIRKLL012398HR

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED:**

Mr. James H. Wettermark  
Burge & Wettermark, P. C.  
2300 South Trust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3204

Re: Lester E. Kirkland, Jr.

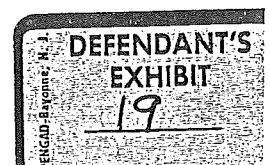
Dear Mr. Wettermark:

After reviewing Dr. Howard's medical report and based upon the current documentation in his medical file, Norfolk Southern's Medical Department informed me that Mr. Kirkland can probably perform alternate, sedentary style work for the Railway Company. However further updated medical reports are needed that address Mr. Kirkland's low back and right thumb conditions. These reports should pertain to any work restrictions placed on his return to work by his doctors, whether he is at maximum medical improvement and whether he is on prescription medication with any medicine related side effects.

Please coordinate with Mr. Kirkland and his doctors for my receipt of these updated medical reports. Upon receipt of same, I will forward those reports to our Medical Department with a request to advise whether those reports change the determination that Mr. Kirkland can probably perform sedentary style work for the Railway Company.

Certain clerical and dispatcher positions are considered sedentary work on the railroad. There are currently 53 clerical vacancies in the Centralized Yard Office (CYO) in Atlanta. There are currently 19 dispatcher vacancies in the Crew Management Center (CMC) in Atlanta.

In order to be considered for an alternate position within the Company, Mr. Kirkland must complete a personnel evaluation. This evaluation, conducted by Norfolk Southern's Personnel Department, consists of several general aptitude tests and a personal interview. The entire process lasts approximately five hours and determines his abilities and aptitude for alternate placement within the Company. If Mr. Kirkland would like to proceed with his vocational rehabilitation, please contact me and I will coordinate the scheduling of his personnel evaluation.



Mr. James H Wettermark  
December 16, 1999  
Page 2

In order to meet the minimum job requirements for a clerical or dispatcher position, Mr. Kirkland must be able to type at least 35 words per minute. If he is unable to type at that level of proficiency, Norfolk Southern will reimburse Mr. Kirkland the cost of tuition, registration, fees and books for taking a typing class at an accredited educational facility. He must successfully complete that class with a grade of "C" or better to receive this reimbursement. If he would like to take advantage of this benefit, he should advise me what institution he plans to attend and retain all receipts and submit them to me with his grade transcript.

I hope that Mr. Kirkland will take advantage of the Program and move forward with his vocational rehabilitation. If you or Mr. Kirkland have any questions, feel free to contact me at (540)981-5606.

Very truly yours,

*T. Michael Maher*

TMM/mhs

Manager  
Disability Support Services

cc:

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, S.C. 29332

Mr. J. L. Wagner - Division Superintendent  
Dr. C. R. Prible - [REDACTED]



Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981- 5606  
540 981-5305 FAX

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

January 12, 2000  
KIRKLL012398HR

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED:**

Mr. James H. Wettermark  
Burge & Wettermark, P. C.  
2300 South Trust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3204

Re: Lester E. Kirkland, Jr.

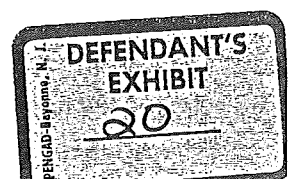
Dear Mr. Wettermark:

Thank you for your letter dated December 21, 1999.

I look forward to receipt of updated medical reports that address the medical issues mentioned in my letter dated December 16, 1999.

At the present time, there is one dispatcher position available at Greenville, S.C. It is my understanding that Mr. Kirkland previously performed dispatcher duties. If Mr. Kirkland would like to discuss this position further, please let me know and I will arrange a meeting between him and Superintendent Wagner.

If he would like to explore opportunities outside the Railway Company, Norfolk Southern will provide the services of an outside vocational counselor to assist Mr. Kirkland in finding gainful employment outside the Company.



Mr. James H. Wettermark  
January 12, 1999  
Page 2

I hope that Mr. Kirkland will take advantage of the Program and move forward with his vocational rehabilitation. If you or Mr. Kirkland have any questions, feel free to contact me at (540)981-5606.

Very truly yours

*J. Michael Maher*

Manager  
Disability Support Services

TMM/mhs

cc:

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, S.C. 29332

Mr. J. L. Wagner - Division Superintendent  
Dr. C. R. Prible - [REDACTED]



Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981-5606  
540 981-5305 FAX

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

February 18, 2000  
KIRKLL012398HR

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, S.C. 29332

Dear Mr. Kirkland:

Thank you for your letter dated January 20, 2000.

I am glad to hear you would like to talk with Mr. Wagner regarding a dispatcher position with the Company. I am in the process of trying to schedule that meeting and I will let you know when I have a date and time.

I am still awaiting the medical records I requested from Mr. Wettermark in my letters dated January 12, 2000 and December 16, 1999. Please coordinate with Mr. Wettermark and your treating doctor for my receipt of those records.

I need to check with the Medical Department regarding the medications you listed in your letter. What are the dosages and frequency of the Celebrex, Ultram, Vicodin ES and Oxycodone that you mentioned you are still taking? Please let me know this information so I can relay it to the Medical Department.

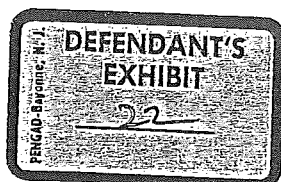
Your other concerns can be discussed with Mr. Wagner.

If you are unable to return to any Railway Company employment, Norfolk Southern will gladly provide you with the services of an outside vocational counselor to assist you in finding gainful employment outside the Company.

I keep you apprised of the scheduled meeting with the Superintendent's office. If you or Mr. Wettermark have any questions, feel free to contact me at (540)981-5606.

*Very truly yours,*

**T. MICHAEL MAHER**  
Manager  
Disability Support Services







Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981-5606  
540 981-5305 FAX

March 7, 2000  
KIRKLL012398HR

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

VIA FACSIMILE AND CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James H. Wettermark  
Burge & Wettermark, P.C.  
2300 South Trust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3204

Re: Lester E. Kirkland

Dear Mr. Wettermark:

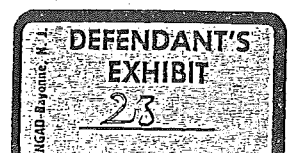
This will serve to follow-up our telephone conversation of this date. During that conversation, I informed you of Mr. Kirkland's request to talk with Superintendent Wagner about various aspects of a dispatcher position in Greenville, S.C. Mr. Wagner is no longer located in Greenville, but Mr. Mike Alley will be the appropriate person to talk with Mr. Kirkland.

As I informed you during our telephone conversation, Mr. Alley is available to meet with Mr. Kirkland on Thursday, March 9, 2000, Friday, March 10, 2000, or Tuesday, March 14, 2000. The meeting should start no earlier than 10:00 a.m and will take place in Mr. Alley's office at 1120 West Washington Street, Greenville, S.C. 29601. Mr. Alley's telephone number is (864)253-4228.

You informed me that you would contact Mr. Kirkland to determine which of these three days is best for him. You stated that you would let me know what day Mr. Kirkland chooses and I appreciate you notifying me of that decision as soon as possible so that I may notify Mr. Alley.

If you or Mr. Kirkland have any questions, feel free to contact me at (540)981-5606.

Very truly yours,  
T. MICHAEL MAHER  
System Manager  
Disability Support Services





Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540 981- 5605  
540 981-5305 FAX

March 20, 2000  
KIRKLL012398HR

G. L. Byrd  
System Manager  
Disability Support Services

R. S. Hayth  
Manager  
Disability Support Services

T. Michael Maher  
Manager  
Disability Support Services

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, S.C. 29332

Dear Mr. Kirkland:

I understand you met with Mr. Alley to discuss aspects of a dispatcher position. It is my further understanding you do not medically qualify for a dispatcher position at the present time.

Norfolk Southern's Medical Department informed me you are medically qualified to return to an alternate clerical position within the Company. There are currently 11 clerical vacancies in the Centralized Yard Office in Atlanta, GA. As I explained in my December 16, 1999 letter to Mr. Wettermark, with copy to you, there is a minimum typing requirement of 35 words per minute for clerical positions. Additionally, you must complete a personnel evaluation before being considered for any alternate positions within the Company.

In your letter dated January 20, 2000, you stated that you "...would be more than thankful to work with an outside vocational counselor to try to find some gainful employment...". If you would like to pursue this, let me know and I will have a vocational counselor from one of the numerous providers we use throughout the system contact you.

Please let me know how you would like to proceed with your vocational rehabilitation. If you or Mr. Wettermark have any questions, feel free to contact me at (540) 981-5605.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'T. Michael Maher', written over the typed name.

System Manager  
Disability Support Services

TMM/cmt

cc:

Mr. James H. Wettermark -  
Burge & Wettermark, P.C.  
2300 South Trust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3204

Thank you for your letter dated  
March 9, 2000.

Mr. T. G. Czahor - Division Superintendent

Dr. C. R. Prible - [REDACTED] - Enclosed is letter with list of  
Mr. Kirkland's medications.





Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540/981-5606  
Fax: 540/981-5305

T. Michael Maher  
System Manager  
Disability Support Services

Patsy F. Huffman  
Disability Support Services Agent

April 6, 2000  
KIRKLL012398HR

VIA FACSIMILE AND CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James H. Wettermark  
Burge & Wettermark, P.C.  
2300 South Trust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3204

Re: Lester E. Kirkland

Dear Mr. Wettermark:

Enclosed is copy of Mr. Kirkland's letter dated March 24, 2000.

As he requested the services of a vocational counselor, I contacted Genex Services with a request to provide him with vocational assistance. Ms. Geneva Bookman will be assisting Mr. Kirkland in trying to locate gainful employment outside the Railway Company.

I requested that she contact Mr. Kirkland by telephone on Friday, April 7, 2000 and I gave her his telephone number as (864) 998-3833. If that telephone number is incorrect, please have Mr. Kirkland or your office contact Ms. Bookman at (704) 568-7187 and give her his correct telephone number.

I wish Mr. Kirkland well in his vocational rehabilitation. If you or Mr. Kirkland have any questions, feel free to contact me.

Very truly yours,  
T. MICHAEL MAHER  
System Manager  
Disability Support Services

cc:

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, S.C. 29332

Mr. T. G. Czahor - Division Superintendent  
Dr. C. R. Prible - [REDACTED]





Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540/981- 5606  
Fax: 540/981-5305

T. Michael Maher  
System Manager  
Disability Support Services  
Patsy F. Huffman  
Disability Support Services Agent

January 19, 2001  
KIRKLL012398HR

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, S.C. 29332

Dear Mr. Kirkland:


Thank you for your letter dated January 9, 2001.

It is unfortunate you do not want to take advantage of the alternate employment opportunity to try and return to work for the Company. If you change your decision, let me know.

It is my understanding you indicated to Ms. Billups-Bookman, that you were unable to work a full-time job. If that is the case, there are no part-time positions within Norfolk Southern.

I urge you to continue working with Ms. Billips-Bookman and Ms. Trantham in your vocational rehabilitation. If you or Mr. Wettermark have any questions, feel free to contact me.

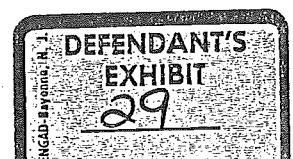
Very truly yours,

  
System Manager  
Disability Support Services

TMM/cmt  
cc:

Mr. James H. Wettermark \*\*  
Burge & Wettermark, P.C.  
2300 South Trust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3204  
\*\*- Enclosed is copy of Mr. Kirkland's letter.

Mr. T. G. Czahor - Division Superintendent  
Dr. C. R. Prible - 





Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042-0055  
540/981- 5606  
Fax: 540/981-5305

T. Michael Maher  
System Manager  
Disability Support Services

Patsy F. Huffman  
Disability Support Services Agent

November 14, 2000  
KIRKLL012398HR

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Lester E. Kirkland, Jr.  
P. O. Box 524  
Cross Hill, S.C. 29332

Dear Mr. Kirkland:

It is my understanding you recently indicated you are interested in pursuing one of the clerical vacancies in the Centralized Yard Office (CYO) in Atlanta, Georgia. It is my further understanding you believe you could meet the minimum typing requirement of thirty-five (35) words per minute.

If you would like to try and return to work in an alternate clerical position, let me know and I will schedule an interview for you with the manager of the CYO area and to schedule your personnel evaluation.

If you or Mr. Wettermark have any questions, feel free to contact me.

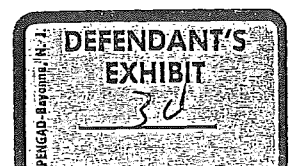
Very truly yours,

  
System Manager  
Disability Support Services

TMM/cmt  
cc:

Mr. James H. Wettermark  
Burge & Wettermark, P.C.  
2300 South Trust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3204

Mr. T. G. Czahor - Division Superintendent  
Dr. C. R. Prible - 



**PAGES 330 THROUGH 398 ARE VOCATIONAL  
PROGRESS REPORTS CONTAINING  
CONFIDENTIAL INFORMATION AND HAVE  
BEEN OMITTED**